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To: Common Council of City of Plattsburgh

From: Lake City LDC Loan Committee

re: Thomas Mc Fadden
Bridge Street Apartments and Façade

Background:

The project involves the renovation of 2 apartments and Bridge Street façade improvements. The cost is currently financed as follows:

| | |
|---------------------------|----------------------|
| 1st mtge | \$ 123,823.68 |
| nys grant | \$ 67,309.00 |
| edrlf city loan | \$ 37,641.00 |
| new edrlf loan | \$ 20,000.00 |
| | \$ 248,773.68 |
| grant forgiveness | \$ (67,309.00) |
| total debt | \$ 181,464.68 |
| owner equity | \$ 25,000.00 |
| total project cost | \$ 206,464.68 |

Loan Increase Request. The owner has requested, and K Primard has recommended, that the EDRLF loan be increased by \$20,000 and the current loan term be extended from 10 to 15 years. The additional loan proceeds will be used primarily to re-do the rear façade to the building which is the main entrance to the apartments.

Contracting Procedures for Additional Work. The plans and specifications for the extra work were prepared by the owner and contractor. The work has not been bid. The intention was to approve the extra work as a change order to the construction contract. The LDC loan

committee, and the Common Council, should address whether the work can or should be done by change order. The following is an excerpt from a NYCOM paper on construction contracts.

In general, a change order may be issued without competitive bidding, as long as the change order being sought does not alter the main purpose of the contract. A change order is permitted in circumstances involving minor alterations because “[t]he law recognizes the necessity for changes in public contracts as construction goes forward. However, no important general change may be made which so varies from the original plan or is of such importance as to constitute a new undertaking”. If a change is incidental to an entire contract, it will not be considered a material variance that requires competitive bidding.

In this case the change is for work that is desirable, but not necessary to complete the original scope of work. The amount is more than a minor alteration. Therefore, I do not think the extra work can or should be approved by change order. [Although the city is not the owner of the project or a party to the construction contract, cdbg grant regulations require adherence to city contracting procedures.]

The next issue is whether the work needs to be formally bid. General Municipal Law 103 permits “public works” contracts under \$20,000 to be entered into without formal competitive bidding, however, GML 104 requires the City to follow an adopted purchasing policy. The City purchasing policy has not been changed for several years and requires formal competitive bids for public works projects over \$10,000, therefore, unless the policy is changed, formal bids are required. (If the policy were changed the work could be priced by obtaining written quotes from 3-5 sources.) If the work is bid, there will have to be a reasonably detailed specification.

Additional Loan Request.

The current city loan for \$37,641.00 is secured by a second mortgage on the property. The property has a 2011 assessed value of \$ 119,300.00, but this is probably because the apartments were not occupied as of 3/1/2011. Based on my understanding of City Assessor income valuation methods (which ought to be confirmed by the Assessorⁱ), I believe the 2012 assessed value will be \$239,000. If I am correct, the total debt on the property (private 1st mortgage and city 2nd mortgage) will be 75% of the value of the project which is consistent with the EDRLF policy on loan subordinations, attached.

| | Estimated Value | monthly rent |
|--------------|-----------------|--------------|
| commercial 1 | \$1,000.00 | |
| commercial 2 | \$1,400.00 | |

apartment 1 \$841.00
apartment 2 \$800.00
gross rent potential \$4,041.00

city valuation formula
vacancy bad debt 5% \$202.05
op exp 30% eff rent \$1,151.69
total expense \$1,353.74
net op income \$2,687.27

city cap rate 0.135
value \$238,868.00
(assessor estimates value at \$255,000 – see end note)

Recommendation for Consideration by LDC loan committee

Since the money will be used to improve the entrance to the apartments, they will add value and income stability to the apartments. The increased loan amount is within the limits for a subordinate lien position.

It is recommended that the loan be increased by \$20,000 subject to the following conditions:

1. Plans and specifications shall be reviewed and approved by the CD housing inspector, K Primard.
2. The work shall be bid as a separate contract.
3. The term of the loan shall be extended to 15 years, however, the City shall have the option of calling the loan due at the end of year 10.
4. Other pertinent EDRLF loan conditions may apply.

Policy recommendation: EDRLF loan subordination in refinancingⁱⁱ.

- A. All loan subordination requests shall be reviewed by the Lake City LDC loan committee who shall make a recommendation to the Common Council. The Lake City LDC may charge an administrative fee for its services and retain the fee for its corporate purposes.
- B. The City may, but is not obliged to, consent to subordinate its EDRLF loan to a new loan if:
 - 1. The new loan is for not more than the balance of the first lien loan plus refinancing costs.
 - 2. If the new loan is for more than the first lien balance and:
 - a. the combined principal debt of the new loan and edrIf loan do not exceed 75% of the value of the property; and
 - b. the excess new loan proceeds are used to:
 - i. make improvements to the real property
 - ii. pay business debt of the business occupying the property
 - iii. buy inventory or equipment for the business occupying the property
 - iv. invest in a new business in the City of Plattsburgh
 - c. as a condition of consenting to subordinate, the City may:
 - i. change the terms of the EDRLF loan, including increasing the interest rate, or requiring a balloon payment
 - ii. require supporting documentation for the use of new loan proceeds such as verification of business debts to be paid, improvement costs, inventory and equipment purchases
 - iii. charge an administrative fee for reviewing the subordination request and legal costs incurred in modifying or subordinating the loan.
- C. The City generally will not consent to subordinate to a new loan when:
 - 1. The new loan is for more than the balance of the first lien loan plus refinancing costs; and
 - 2. The excess new loan proceeds are used:

- a. to repay a loan from the owner, to buy out another owner, to pay owner wages, profit or personal expenses
- b. to invest in a new business outside the City of Plattsburgh

ⁱ I reviewed all the information and the valuation formula you used is close, but the operating expense percentage I would use for a mixed use building (apartments and retail) would be 75%. Therefore, the estimated assessed value would probably come out somewhere in the range of \$255,000. I will not know for sure what the assessed value will be until I look at the commercial values in early 2012 for the 2012 assessment roll.
email from Assessor to Corporation Counsel sent 6/21/11

ⁱⁱ The policy recommendations were adopted by the Common Council in May, 2010.